

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Attorney Docket No. 14969US01**

***In the Application of:***  
Geoffrey Flagstad

***Serial No.:*** 10/679,749

***Filed:*** October 6, 2003

***For:*** MEDICAL RECORD CARDS AND  
STORAGE SYSTEMS

***Examiner:*** Michael Tomaszewski

***Group Art Unit:*** 3626

***Confirmation No.:*** 2813

***Filed via Electronic Filing on***  
***December 18, 2007***

**NOTICE OF APPEAL**  
**37 C.F.R. § 41.31(a)(1)**

**(§ 1204.01MPEP -- Reinstatement of Appeal)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Dear Sir:

The Applicant (known in this paper as the "Appellant" for reasons explained below) hereby appeals to the Board of Patent Appeals and Interferences from the decision dated November 28, 2007, of the Primary Examiner rejecting claims 1, 2, and 5-64 of the present application. All the rejected claims which have not previously been cancelled or withdrawn are appealed.

The Appellant previously appealed the final rejection of January 25, 2007, by filing a Notice of Appeal on May 25, 2007, a Brief on Appeal on July 20, 2007, and a Supplemental Brief on Appeal on September 17, 2007. The Office responded by mailing a new, non-final Office action dated November 28, 2007.

The new Office action purports to:

- withdraw the final rejection of January 25, 2007, under 35 USC § 103,
- reject all the pending claims under 35 U.S.C. § 101, and
- reject all the pending claims under 35 USC § 103.

The purported new rejection under 35 USC § 103, however, appears to be essentially identical to the withdrawn rejection under 35 USC § 103 (see pp. 2-14 of the Office action of January 25, 2007, vs. pp. 3-15 of the Office action of November 28, 2007). The net effect of the new Office action is thus to re-open prosecution, state a new ground of rejection under 35 U.S.C. § 101 and continue the same rejection as before under 35 USC § 103.

Claims 1, 2, and 5-64 have been twice rejected, in the Office actions of January 25 and November 28, 2007. The claims have not been amended since November 13, 2006 – before the final Office action of January 25, 2007. The claims therefore are ripe for consideration on appeal.

In accord with § 1204.01MPEP -- Reinstatement of Appeal, the Appellant elects to reinstate this appeal after prosecution has been re-opened, instead of continuing prosecution. Accordingly, the Appellant is filing this new notice of appeal in compliance with 37 CFR 41.31.

## **BRIEF TO FOLLOW**

The Appellant plans to file a complete new appeal brief in compliance with the format and content requirements of 37 CFR 41.37(c) in due course.

## **APPEAL FEE**

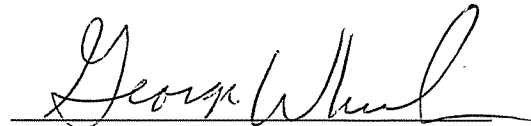
The Appellant previously paid a small-entity appeal fee of \$250.00 on May 25, 2007. The small-entity fee for filing a notice of appeal is currently understood to be \$255.00, as of October 1, 2007. Since the notice of appeal fee has increased by \$5.00 since it was previously

paid, the Appellant is paying the difference of \$5.00 between the current fee and the amount previously paid.

Please charge Deposit Account No. 13-0017 in the amount of \$5 to cover the calculated fee. The Commissioner is hereby authorized to charge any additional fees which are presently required, or credit any overpayment, to Deposit Account No. 13-0017.

December 18, 2007  
Date

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "George Wheeler", written over a horizontal line.

George Wheeler  
Reg. No. 28,766  
Attorney for applicant/appellant

McAndrews, Held & Malloy, Ltd.  
34th Floor  
500 West Madison Street  
Chicago, IL 60661  
Phone No. (312) 775-8000  
Facsimile No. (312) 775-8100